



HYDRAULIC PROJECT APPROVAL
RCW 75.20.100 or RCW 75.20.108

3-15-99
123807
State of Washington
Department of Fish and Wildlife
Region 4 Office
16018 Mill Creek Boulevard
Mill Creek, Washington 98012

DATE OF ISSUE: March 15, 1999

LOG NUMBER: 00-D9816-01

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Ashgrove Cement Company ATTENTION: Don Ugelstad 3801 East Marginal Way South Seattle, Washington 98134 (206) 623-5596, Ext: 210 (206) 623-5355	Leslie Sacha Consulting ATTENTION: Leslie Sacha 929 North 76 th Street Seattle, Washington 98103 (206) 789-6926 Fax: (206) 789-7048

PROJECT DESCRIPTION: Replace Damaged Transfer Tower

PROJECT LOCATION: 3801 East Marginal Way South, Seattle

#	WRIA	WATER BODY	TRIBUTARY TO	1/4 SEC.	SEC.	TOWNSHIP	RANGE	COUNTY
01	09.MAR1	Duwamish Waterway	Puget Sound	18	24	North	04 East	King

PROVISIONS

- TIMING LIMITATIONS:** The project may begin June 15, 1999 and shall be completed by December 31, 1999, provided:
 - Work below the ordinary high water line shall not occur from March 15 through June 14 of any year for the protection of migrating juvenile salmonids.
- Work shall be accomplished per plans and specifications entitled, Ashgrove Cement Comp. Transfer Tower, dated December, 1998, and submitted to the Washington Department of Fish and Wildlife, except as modified by this Hydraulic Project Approval. These plans reflect design criteria per Chapter 220-110 WAC. These plans reflect mitigation procedures to significantly reduce or eliminate impacts to fish resources. A copy of these plans shall be available on site during construction.
- During the dismantling of the metal frame transfer tower, a debris boom will be used to contain and collect the 12 existing treated timbers.
- The 12 existing pilings shall be removed and disposed of upland such that they do not enter waters of the state.
- As specified in the application, the replacement pilings will be 5 steel piles.
- The existing transfer span shall be sufficiently clean to ensure no cement by-products shall enter waters of the state.
- Eelgrass and kelp shall not be adversely impacted due to any project activities (e.g., barge shall not ground, equipment shall not operate, and other project activities shall not occur in eelgrass and kelp).
- Project activities shall be conducted to minimize siltation of the beach area and bed.





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9. If a fish kill occurs or fish are observed in distress, the project activity shall immediately cease and WDFW Habitat Program shall be notified immediately.
10. All debris or deleterious material resulting from construction shall be removed from the beach area and bed and prevented from entering waters of the state.
11. No petroleum products or other deleterious materials shall enter surface waters.
12. Project activities shall not degrade water quality to the detriment of fish life.

SEPA: Exempt, City of Seattle on January, 15, 1999

APPLICATION ACCEPTED: February 23, 1999

ENFORCEMENT OFFICER: Frame 124 [P3]

Pamela Erstad (425) 379-2306
Area Habitat Biologist

Pamela Erstad

for Director
WDFW

cc: Ted Muller, WDFW
Hermia Ip, DCLU, 710-2nd Avenue, Suite 200, Seattle, Washington 98104-1703

GENERAL PROVISIONS

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 75.20). Additional authorization from other public agencies may be necessary for this project.

This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.

This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.

Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 75.20.100 or 75.20.160 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 75.20.103 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 75.20.130.

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APPEALS - GENERAL INFORMATION

IF YOU WISH TO APPEAL A DENIAL OF OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100, 75.20.103, 75.20.106, AND 75.20.160:

A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA; or
- (B) An order imposing civil penalties.

It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.100 OR 75.20.106:

A person who is aggrieved or adversely affected by the following Department actions may request an formal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA;
- (B) An order imposing civil penalties; or
- (C) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 75.20.103 or 75.20.160:

A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

D. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.